

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
HOUSTON DIVISION

United States Courts
District of Texas
FILED

DEC 18 2012

Clifford W. Brantley, Clerk of Court

UNITED STATES OF AMERICA
ex rel. Susan Ruscher
STATE OF CALIFORNIA, et al

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Plaintiffs,

CIVIL ACTION NO. 08-CV-3396

VS.

OMNICARE, INC., et al

FILED IN CAMERA AND
UNDER SEAL

Defendants.

NOTICE OF THE UNITED STATES
THAT IT IS NOT INTERVENING AT THIS TIME

In its last Order, dated August 17, 2012, the Court extended the time for the Government to make its intervention decision until on or before December 19, 2012. The Government's investigation has not been completed and, as such, the United States is not able to decide, as of this deadline, whether to proceed with the action. Accordingly, the United States hereby notifies the Court that it is not intervening at this time. However, the Government's investigation will continue.

Although the United States is not intervening at this time, it respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the "action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting." *Id.* Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon it; the United States also requests that orders issued by the Court be sent to the Government's counsel. The United States reserves its right to order any deposition transcripts, to intervene in this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the Government requests that the relator's Second Amended Complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

A proposed order accompanies this notice.

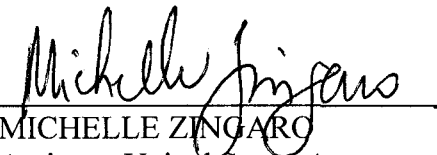
Dated: December 18, 2012

Respectfully submitted,

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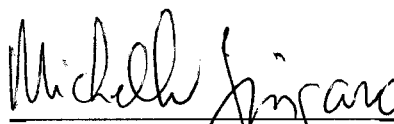
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Certificate of Service

I hereby certify that on December 18, 2012, a true and correct copy of the above Notice of the United States That It Is Not Intervening at This Time was forwarded via first-class mail to:

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Berg & Andropy
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Assistant Attorney General
Office of the Texas Attorney General
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Michelle Zingaro